

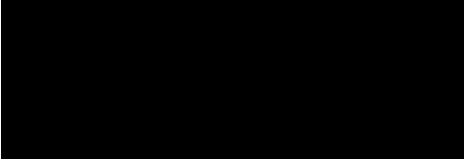
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Washington, DC 20529



U.S. Citizenship  
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Services

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JUL 20 2004

FILE:



Office: NEBRASKA SERVICE CENTER  
(LIN-03-221-54187 relates)

Date:

IN RE:

Applicant:



APPLICATION: Application for Refugee Travel Document Pursuant to 8 C.F.R. § 223.1(b).

ON BEHALF OF APPLICANT: SELF-REPRESENTED

**INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

*[Handwritten signature]*

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Nebraska Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Somalia, who seeks to obtain a refugee travel document pursuant to 8 C.F.R. 223.1(b). The Director concluded that the applicant did not hold a valid refugee status under section 207 of the Act or valid asylum status under section 208 of the Act at the time the application was filed and denied the application accordingly. *See Director's Decision* dated January 26, 2004.

On appeal the applicant states that she needs to travel to Kenya in order to take care of her terminally ill mother. The applicant states that she did not apply for advance parole because she was told that it would allow her to be out of the country for three months maximum and she might need more time than that.

The regulation at 8 C.F.R. § 223.1 states in pertinent part:

(b) Refugee travel document. A refugee travel document is issued pursuant to this part and article 28 of the United Nations Convention of July 29, 1951, for the purpose of travel. Except as provided in § 223.3(d)(2)(i), a person who holds refugee status pursuant to section 207 of the Act, or asylum status pursuant to section 208 of the Act, must have a refugee travel document to return to the United States after temporary travel abroad unless he or she is in possession of a valid advance parole document.

The regulation at 8 C.F.R. § 223.2(b)(2)(i) states:

General. Except as otherwise provided in this section, an application may be approved if filed by a person who is in the United States at the time of application, and either holds valid refugee status under section 207 of the Act, valid asylum status under section 208 of the Act, or is a permanent resident and received such status as a direct result of his or her asylum or refugee status.

A review of the documentation provided and a search of the electronic database of Citizenship and Immigration Services (CIS) reveal that the applicant filed an application for asylum on June 29, 2001, which is still pending with CIS. In the present case the applicant has failed to establish that she holds a valid refugee or asylum status under section 207 or 208 of the Act. Absent such evidence, the application may not be approved.

Section 291 of the Act, 8 U.S.C. § 1361, provides that the burden of proof is upon the applicant to establish that the applicant is eligible for the benefit sought. Here, the applicant has not met that burden. Accordingly, the appeal will be dismissed.

The decision is without prejudice to the filing of a new Form I-131 if the applicant becomes an asylee or a permanent or conditional resident of the United States.

**ORDER:** The appeal is dismissed.